

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

BILLY DRIVER, JR.,

Plaintiff,

v.

CHAVEZ,

Defendant.

No. 2:22-CV-1447-KJM-DMC-P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion, ECF No. 6, for leave to proceed in forma pauperis.

The Court finds that Plaintiff has not made the showing of indigency required by 28 U.S.C. § 1915(a). Specifically, a review of Plaintiff's prison trust account statement reflects that, as of September 2, 2022, Plaintiff had \$1,838.47 in available funds, which is an amount sufficient to pre-pay the filing fees for this action. See ECF No. 10.

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Based on the foregoing, the undersigned recommends that:

1. Plaintiff's motion, ECF No. 6, for leave to proceed in forma pauperis be denied and that this action be dismissed without prejudice to refiling upon pre-payments of the filing fees therefor; and

2. Plaintiff's motion for injunctive relief, ECF No. 5, be denied as moot.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after being served with these findings and recommendations, any party may file written objections with the court. Responses to objections shall be filed within 14 days after service of objections. Failure to file objections within the specified time may waive the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: September 12, 2022



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE